

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

CRIMINAL REVISION APPLICATION NO. 69 OF 2006

Balabai Balu Patil. ... Applicant.

V/s.

State of Maharashtra
and others. ... Respondent.

Ashish Gaikwad for the applicant.

Ms.M.H.Mhatre, APP for respondent No.1-State.

Sudatta Patil for respondent Nos.2 to 4.

CORAM: V.C.DAGA, J.

DATED: 24th July 2007.

P.C.:

. Heard learned counsel for the rival parties.

. Perused revision petition with other documents.

2. This revision application is directed against the judgment and order dated 11th October, 2005 passed in Sessions Case No.6/2005 by the First Ad-hoc Additional Sessions Judge, Islampur, whereby the learned Sessions Judge was pleased to acquit the accused of the offences punishable under sections 498A, 306 read with section 34 of the Indian Penal

Code.

3. The learned counsel appearing for the applicant- complainant has taken me through the entire judgment and the evidence available on record. He submits that the prosecution has examined only two witnesses though there were 10 witnesses. According to him though there was no suicide note, however, the continuous harassment of deceased Sangita by her in-laws disturbed her and, ultimately, compelled her to commit suicide. He has also placed reliance on the post mortem report to contend that there were about 99% burn injuries which, according to him, cannot occur in the normal course. He, therefore, submits that the impugned judgment does not stand to the scrutiny of law, as such liable to be set aside.

4. I have gone through the evidence, judgment, and findings recorded therein. The trial Court has observed that though there was mention in the F.I.R. that the accused were making demand of Rs.50,000/- for purchasing motorcycle and otherwise asking deceased Sangita to commit suicide, if that is not possible. However, this fact is not proved by the witnesses in their evidence. The trial Court has also observed that both the witnesses were interested witnesses and no independent witness was examined by the complainant. After appreciation of the evidence on

record, the trial Court has come to the conclusion that none of the witnesses could prove cruelty alleged to be practised on the deceased Sangita by the accused. The learned counsel for the applicant tried to rely upon the statements made before the investigation officer, however, the said statements are not proved in evidence.

5. In my opinion, on proper appreciation of evidence acquittal of the accused is recorded by the trial Court. In the case of **C.P.Fernandes v. Union territory of Goa, Daman & Diu**, AIR 1977 SC 135, the Apex Court has ruled that the Court should not interfere with the trial Court view unless found to be unreasonable or perverse. If two views are possible on the basis of evidence on record, the higher Court should not disturb the findings of the trial Court is the settled law (see **Varghese Thomas v. State of Kerala**, 1977 SC 701).

6. This Court not being a Court of appeal cannot substitute its view in exercise of revisional jurisdiction. Revisional jurisdiction is not only limited in scope but also is discretionary. The Court interferes in the revisional jurisdiction only in

exceptional cases of flagrant miscarriage of justice as held by Apex Court in the case of **State of Rajasthan v. Gurucharandas Chaddha, AIR 1979 SC 1895.**

7. Having examined the legal position, no fault can be found either with the appreciation of evidence or with the view taken. The view taken by the trial Court is reasonable and possible view in the facts and circumstances of the case which can be supported on the basis of evidence on record. No perversity or unreasonable approach on the part of the trial Court could be pointed out by the applicant.

8. In the above view of the matter, no case is made out to entertain this revision application. The same is dismissed in limine with no order as to costs.

JUDGE